THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 5020 of 2005

DATED: 08-09-2006

Between

G. Janakiramaiah.

petitioner

And

A.P.S.R.T.C rep. by its Vice-Chairman and Managing Director, Musheerabad, Hyderabad and another.

..Respondents.

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 5020 of 2006

ORAL ORDER:

This writ petition is filed seeking a writ of mandamus directing the respondents to grant special grade increment from the year 2001 by counting continuity of service granted by the Labour Court in I.D.No.261 of 2001, dated 31-07-2003 with all benefits and arrears.

The petitioner was employed in the respondent Corporation as Conductor on 01-07-1986. While he was working as Conductor at Machilipatnam Depot, he was removed from service on 31-12-1998 on certain irregularities. Aggrieved by the same, he raised an industrial dispute in I.D.No.261 of 2001. The Labour Court, vide its award dated 31-07-2003, directed the respondents to reinstate him into service with continuity of service, but without backwages, interest and all other attendant benefits and withholding of two annual increments with cumulative effect.

In pursuance of the said award, the petitioner was reinstated into service and posted to 2nd respondent depot. While so, the respondent management issued a Circular No.65 of 1989 dated 05-05-1989 granting one increment as special grade on completion of 12 years from the date of initial appointment. As per the said circular, the respondents shall grant stagnation increment w.e.f. 19-04-2001 and pay arrears to the petitioner by giving 2001 pay

revision effect, but the authorities failed to grant the said increment in spite of his repeated requests and, they orally informed him that the continuity of service, which was granted by the Labour Court cannot be counted for calculation of 12 years of service, for the purpose of granting stagnation increment. It is stated that in similar case in W.P.No.26584 of 1996, this Court directed the respondent management to grant continuity of service by counting the period out of employment as on duty. Therefore, as per Circular No.65 of 1989 dated 03-05-1989 he is also entitled to sanction of Special Grade/Stagnation Increment. Hence, the present writ petition.

Heard the learned counsel for petitioner and learned Standing Counsel for respondent corporation.

The learned counsel for the petitioner contended that since the Labour Court directed reinstatement of the petitioner with continuity of service, he shall be deemed to be in service throughout, and would be entitled to grant of Stagnation/Special Grade Increment upon completion of 12 years by counting the period, he remained out of employment by virtue of the orders of removal. In support of this submission, he relied on a decision of this Court in ***M.D.R AHAMATULLAH v. DEPOT MANAGER, APSRTC, GODAVARI KHANI DEPOT***[1].

Learned Standing Counsel for the respondent corporation submitted that the circular granting Stagnation/Special Grade Increments, was issued for the benefit of employees, who had no chance of promotion even after working for a long period of 12 years, but it is not applicable to the employees, who are deemed to be in service by virtue of the award of the Labour Court and

therefore, the petitioner is not entitled to the said benefit.

I am unable to agree with the contentions of the respondents. When once the Labour Court directs reinstatement of an employee with continuity of service, with or without backwages, the employee concerned will be entitled for all the benefits flowing from such continuity of service, and as such, the respondents shall count the period the petitioner remained out of employment by virtue of the removal orders, for the purpose of reckoning 12 years period, for granting Stagnation/Special Grade Increments. Having regard to the fact that the Labour Court while setting aside the order of removal, directed reinstatement of the petitioner with continuity of service, he is also entitled to grant of Stagnation/Special Grade Increment, immediately after he completed 12 years. However, the petitioner without approaching the authorities has approached this Court directly.

Under the above circumstances, the petitioner is directed to file a representation before the respondents by placing relevant material. On such representation, the respondents are directed to consider the claim of the petitioner by counting the continuity of service granted by the Labour Court in I.D.No.261 of 2001, dated 31-07-2003 and pass appropriate orders in accordance with the judgment of this Court as well as relevant circulars and Regulations of the Corporation. The respondents are directed to complete the above exercise as expeditiously as possible.

Subject to above direction, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

Dated:08.09.2006

sj

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[1] 1999(4) ALT 515